



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Charles R. Spies
Clark Hill PLC
1001 Pennsylvania Ave. NW
Suite 1300
Washington, DC 20004

MAY 23 2019

RE: MUR 7435 (David Vitter for U.S. Senate)

Dear Mr. Spies,

On May 21, 2019, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 52 U.S.C. § 30116(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Andrade", with a long horizontal flourish extending to the right.

Amanda Andrade
Attorney

Enclosure:
Conciliation Agreement

GENERAL COUNSEL

7-10 APR 25 AM 10:46
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

**In the Matter of David Vitter for U.S.
Senate and William Vanderbrook
in his official capacity as treasurer**

MUR 7435

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that David Vitter for U.S. Senate and William Vanderbrook in his official capacity as treasurer (“Respondent” or “the Committee”) violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

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1 1. The Committee is the principal campaign committee of former Louisiana
2 Senator David Vitter, a candidate for re-election to the U.S. Senate during the 2016 election
3 cycle. William Vanderbrook is the treasurer of the Committee.

4 2. Vitter withdrew from the 2016 U.S. Senate election in November 2015,
5 which was prior to the date designated as the primary election; thus he did not participate in the
6 general election.

7 3. Under the Act, an individual may not make a contribution to a candidate
8 with respect to any election in excess of the legal limit, which was \$2,700 per election during the
9 2016 election cycle. *See* 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1). A primary
10 election and a general election are each considered a separate "election" under the Act, and the
11 contribution limits are applied separately with respect to each election. *See* 52 U.S.C.
12 §§ 30101(1)(A) and 30116(a)(6); 11 C.F.R. §§ 100.2 and 110.1(j). Candidates and political
13 committees are prohibited from knowingly accepting excessive contributions. *See* 52 U.S.C.
14 § 30116(f).

15 4. The Commission's regulations permit a candidate's committee to receive
16 contributions for the general election prior to the primary election. *See* 11 C.F.R. § 102.9(e)(1).
17 The committee must use an acceptable accounting method to distinguish between primary and
18 general election contributions. *Id.* The committee's records must demonstrate that prior to the
19 primary election, the committee's recorded cash on hand was at all times equal to or in excess of
20 the sum of general election contributions received less the sum of general election disbursements
21 made. *See* 11 C.F.R. § 102.9(e)(2).

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1 5. If the candidate does not become a candidate in the general election, the
2 committee must refund, redesignate, or reattribute such contributions. *See* 11 C.F.R. §§
3 102.9(e)(3), 110.1(b)(3)(i), 110.2(b)(3)(i).

4 6. Redesignation of general election contributions may only occur to the
5 extent that the amount redesignated does not exceed the contributor's contribution limit for the
6 primary and the amounts redesignated do not exceed the net debts outstanding from the primary.
7 *See* 11 C.F.R. §§ 110.1(b)(5)(iii) and 110.2(b)(5)(iii). Likewise, reattribution of a general
8 election contribution may only occur to the extent that such attribution does not exceed the
9 contributor's contribution limits. *See* 11 C.F.R. § 110.1(k)(3)(ii)(B)(1).

10 7. The Committee accepted contributions totaling \$237,650 that were
11 designated for the 2016 general election, but were not refunded, redesignated, or reattributed
12 within 60 days after Vitter's withdrawal from the 2016 U.S. Senate election.

13 8. The Committee represents that it is owed \$233,608 in unpaid restitution
14 from a vendor that embezzled funds from it. *See* MUR 698) (Pate); *U.S. v. Pate*, No. 15-cr-74
15 (W.D. Ky.). The Committee further represents that it expects to receive yearly restitution
16 payments until the outstanding balance is repaid in full. To date, the Committee has received
17 \$233,524 in restitution payments.

18 V. Respondent violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3),
19 and 110.2(b)(3), by failing to timely refund, redesignate, or reattribute general election
20 contributions, which resulted in Respondent accepting excessive contributions.

21 VI. Respondent will take the following actions:

22 1. Respondent will cease and desist from violating 52 U.S.C. § 30116(f) and
23 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3).

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2. Respondent will refund to the contributors \$233,608, which represents the outstanding restitution payments owed to the Committee, and such refunds shall be made on an ongoing basis within 14 days of the Committee's receipt of any restitution payment..

3. Respondent will pay a civil penalty to the Federal Election Commission in the amount of \$34,000.

4. Once the Respondents have repaid the \$233,608 to the contributors, the Committee will file a termination report.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement, including payment of the civil penalty as set forth in Paragraph VI.3, and so notify the Commission. Notwithstanding, Respondent shall make the required contribution refunds as funds become available, on the terms set forth in Paragraph VI.2.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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1 FOR THE COMMISSION:

2 Lisa J. Stevenson
3 Acting General Counsel

4 BY: 

5 Charles Kitcher
6 Acting Associate General Counsel
7 for Enforcement

5/23/19
Date

8 FOR THE RESPONDENT:

9 

10 William Vanderbrook
11 Treasurer

4/2/19
Date